

Message Text

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ACTION TRSE-00

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PASS TRSY FOR ZINMAN

E O 11652: GDS

TAGS: EAID, EFIN

SUBJ: INDOCHINA ELIGIBILITY - PART II

REF: A) TRSY 75-95; B) MANILA 7652

1. HERewith BANK STAFF RESPONSE TO QUESTIONS RAISED PARA 1, A AND B REF A. IN ORDER TO MEET DEADLINE, STAFF PROVIDED FOLLOWING MEMORANDUM BUT WISH TO STRESS THIS NOT RPT NOT CLEARED BY BANK MANAGEMENT.

2. BEGIN QUOTE FROM STAFF MEMORANDUM: QUOTE:

1. FUTURE BANK ACTIVITIES IN SOUTH VIETNAM AND CAMBODIA, AS IN ALL OTHER MEMBER COUNTRIES, WOULD DEPEND UPON THE EXPRESSED WISH OF THE CONCERNED GOVERNMENT FOR THE COOPERATION AND ASSISTANCE OF THE BANK. POLICIES AND PROCEDURES TO BE ADOPTED BY THE BANK IN ANY FUTURE OPERATIONS IN THESE COUNTRIES, FOLLOWING THE EXPRESSION OF THE CONCERNED GOVERNMENT'S WISHES, COULD ONLY BE FINALLY FORMULATED AFTER CONSULTATION WITH THE APPROPRIATE INTERNAL AUTHORITIES,
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AND ARE SUBJECT TO THE GENERAL OR SPECIFIC APPROVAL OF THE BANK'S

BOARD OF DIRECTORS. SUBJECT TO THESE IMPORTANT QUALIFICATIONS, THE FOLLOWING ARE THE PRESENT VIEWS OF STAFF ON THE ISSUES RAISED:

A. IN THE CASE OF PROJECTS IN SOUTH VIETNAM OR CAMBODIA WHICH HAVE ALREADY BEEN APPROVED BY THE BANK, BANK STAFF WOULD NEED TO REVIEW WITH THE CONCERNED GOVERNMENTAL AUTHORITIES THE EXISTING STATUS OF SUCH PROJECTS TO DETERMINE WHETHER, IN THE CIRCUMSTANCES NOW PREVAILING, IMPLEMENTATION CAN BE RESUMED UNDER THE TERMS AND CONDITIONS PREVIOUSLY AGREED. WHETHER THE BANK WOULD FIND IT NECESSARY TO CONSIDER ADDITIONAL OR MODIFIED CONDITIONS, CONSISTENT WITH THE OBJECTIVES FOR WHICH THE LOAN WAS MADE AND THE LENDING POLICIES OF THE BANK, WOULD DEPEND PRINCIPALLY ON THE RESULTS OF SUCH A REVIEW. IT IS UNLIKELY THAT ANY NEW PROJECTS REQUESTED BY THE GOVERNMENT WOULD BE INITIATED UNLESS AND UNTIL SATISFACTORY ARRANGEMENTS HAD BEEN CONCLUDED REGARDING THE PROJECTS APPROVED PREVIOUSLY.

B. IT IS THE STANDARD PRACTICE OF THE BANK TO DESPATCH TO BORROWING COUNTRIES PERIODIC MISSIONS TO REVIEW ON-GOING BANK PROJECTS TO ENSURE THEIR EFFECTIVE IMPLEMENTATION IN ACCORDANCE WITH THE AGREED ARRANGEMENTS. IN VIEW OF THE NATURE OF RECENT CHANGES IN BOTH SOUTH VIETNAM AND CAMBODIA, THE BANK WOULD CONSIDER SUCH A REVIEW MISSION TO BE NECESSARY PRIOR TO RESUMING EFFECTIVE OPERATIONS IN EITHER COUNTRY.

C. (I) A STANDARD PROVISION IS INCLUDED IN ALL THE BANK'S LOAN AGREEMENTS WHICH IS DESIGNED TO ENSURE THAT THE BANK'S REPRESENTATIVES HAVE ALL REASONABLE OPPORTUNITIES TO VISIT THE TERRITORIES OF THE BORROWING COUNTRY AND TO INSPECT THE PROJECT SITE AND RELEVANT RECORDS AND DOCUMENTS. A PROVISION TO THIS EFFECT HAS BEEN INCLUDED IN ALL EXISTING LOANS TO SOUTH VIETNAM AND CAMBODIA, AND IT IS ASSUMED IT WOULD BE INCLUDED IN ANY FUTURE LOANS.

(II) THE QUESTION OF CONTINUATION OF EXISTING CONTRACTS, BOTH CONSULTANTS CONTRACTS AND OTHERS, DEPENDS UPON WHAT SEEMS TO BE MOST PRACTICAL AND FEASIBLE IN THE PARTICULAR CIRCUMSTANCES, HAVING REGARD INTER ALIA TO THE CONTINUING WILLINGNESS AND ABILITY OF THE PARTIES CONCERNED TO IMPLEMENT THE CONTRACTS IN ACCORDANCE WITH THEIR TERMS, AND THE CONTINUING OR MODIFIED REQUIREMENTS OF THE PROJECT. BANK STAFF DO NOT THINK IT DESIRABLE OR NECESSARY TO ATTEMPT TO FORMULATE ANY FIRM PROPOSITIONS AND PRE-REQUISITES IN THIS REGARD

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UNTIL THEY HAVE A MUCH CLEARER PICTURE OF THE PREVAILING CIRCUMSTANCES AND THE STATUS OF INDIVIDUAL CONTRACTS THAN IS AVAILABLE AT THE PRESENT TIME.

(III) IN ALL PROJECTS WHICH IT FINANCES THE BANK IS CONCERNED TO ENSURE THE CONTINUING ADMINISTRATIVE AND FINANCIAL VIABILITY OF THE AGENCY OR AGENCIES ENTRUSTED WITH EXECUTION AND IMPLEMENTATION OF THE PROJECT. THIS WOULD BE ONE OF THE MATTERS WHICH WOULD HAVE TO

BE CAREFULLY EXAMINED IN THE COURSE OF THE REVIEW MISSION(S)
REFERRED TO IN PARAGRAPH B ABOVE.

(IV) THIS IS EFFECTIVELY ANSWERED IN PARAGRAPH A ABOVE.

D. THE CIRCUMSTANCES IN WHICH A LOAN MAY BE CANCELLED AT THE INITIATIVE OF THE BORROWER OR OF THE BANK, ARE CONTAINED IN SECTIONS 5.02 AND 5.03 OF THE BANK'S LOAN REGULATIONS, AS SUPPLEMENTED BY ARTICLE V OF EACH LOAN AGREEMENT. THESE ARE STANDARD CONDITIONS WHICH DO NOT SIGNIFICANTLY DIFFER FROM ONE LOAN TO ANOTHER. WE BELIEVE THAT THE UNITED STATES TREASURY ALREADY HAS ALL THE RELEVANT TEXTS. THE PRINCIPAL GROUND FOR CANCELLATION IS IF THE LOAN HAS BEEN SUSPENDED FOR A CONTINUOUS PERIOD OF 30 DAYS. THE BANK'S RIGHT TO SUSPEND, IN TURN, CAN BE EXERCISED ON VARIOUS GROUNDS, THE MOST IMPORTANT OF WHICH ARE IF A DEFAULT HAS OCCURRED IN THE PERFORMANCE OF THE BORROWER'S COVENANTS AND AGREEMENTS, OR IF AN EXTRAORDINARY SITUATION ARISES MAKING IT UNLIKELY THAT THE BORROWER CAN CARRY OUT ITS OBLIGATIONS. BOTH SUSPENSION AND CANCELLATION OF THE LOAN ARE AT THE DISCRETION OF THE BANK, AND SUSPENSION DOES NOT AUTOMATICALLY RESULT IN CANCELLATION. IN MAKING ITS DECISION, CONSISTENT WITH ITS ROLE AS A MULTILATERAL DEVELOPMENT INSTITUTION, THE BANK CONSIDERS INTER ALIA THE INTERESTS OF THE BORROWING COUNTRY AS WELL AS ITS OWN INTERESTS AND THE PRACTICE WHICH IT HAS ADOPTED IN THE CASE OF OTHER BORROWING COUNTRIES IN THE PAST.

E. IN THE CASE OF LOANS ALREADY APPROVED AND EFFECTIVE IN SOUTH VIETNAM AND CAMBODIA, THE ONLY SPECIFIC DATES ON WHICH PARTICULAR ACTION IS REQUIRED ON THE PART OF THE BORROWER ARE THE SIX-MONTHLY DATES ON WHICH DEBT SERVICE PAYMENTS FALL DUE, AS SET OUT IN A SCHEDULE TO EACH LOAN AGREEMENT. SEVERAL OF THE LOANS APPROVED IN SOUTH VIETNAM ARE NOT YET EFFECTIVE. EACH BORROWER FROM THE BANK HAS A STANDARD PERIOD (USUALLY 90 OR 120 DAYS) WITHIN WHICH TO TAKE THE STEPS NECESSARY TO FULFILL THE CONDITIONS PRECEDENT TO EFFECTIVE-
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NESS; BUT THE BANK, TAKING ACCOUNT OF THE CIRCUMSTANCES, HAS NEVER SO FAR REFUSED REASONABLE EXTENSIONS OF THIS PERIOD AT THE REQUEST OF THE BORROWER. END QUOTE.
PURNELL

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